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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,171	04/19/2001	Nobuyoshi Nakajima	2091-0238P	8420
2292	7590	01/12/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			YE, LIN	
		ART UNIT	PAPER NUMBER	
		2615		
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/837,171	NAKAJIMA ET AL.
Examiner	Art Unit	
Lin Ye	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 17 November 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-35 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 19 April 2001 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/2005 has been entered.
  
2. Applicant has filed a copy of the certified English translation of applicant's priority art which claimed to Japanese Application JP. 2000-117669, filed April 19, 2000. The examiner acknowledged and agrees the Baron reference (U.S. 6,459,388) is not properly available as prior art to be applied against claims 1, 5, 9, 23-28 and 32-35.

It also should be noted that applicants' Japanese Application JP. 2000-117669 does not support the limitations disclosed in claims 2-4, 6-8, 1-22 and 29-31. The limitations disclosed in claims 2-4, 6-8, 1-22 and 29-31 are readable on applicants' Figure 6 which only disclosed in another applicants' Japanese Application JP. 2001-078012 filed on March 19, 2001. The filling date of March 19, 2001 of Japanese Application JP. 2001-078012 is after the effective U.S. filing date of January 18, 2001 of the Baron reference. **Therefore, the Baron reference is still a proper prior art to be applied against claims 2-4, 6-8, 10-22 and 29-31.**

3. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 9, 28 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellenby et al. U.S. Patent 5,815,411.

Referring to claim 1, the Ellenby reference discloses in Figures 2A-B, 3 and 4, an imaging device (a vision system device) comprising: imaging means (camera 9, see Col. 10, lines 29-30) for imaging a subject to acquire image data which represents said subject; storage means (data base 12 where information associated with various scenes) for storing recommended composition data (the data from the data base), which represent composition images recommended at various locations of photography, in correlation with photography information containing positional information which represents said various photography locations (e.g., the data base 12 being in communication with the position and attitude determining means, See Col. 10, lines 40-44); photography information acquisition means (GPS and position determining means 16 as shown in Figures 3 and 4) for acquiring said photography information; read-out means for reading out desired, recommended composition data correlated with photography information which corresponds to said acquired

photography information, from said storage means (data base 12), based on said acquired photography information (See Col. 4, lines 55-67); and display means (display 13) for superposing and displaying a recommended composition image (electronic image of the data base, such as fresh water pipes 5,6 and leading to homes 7 which matched with photography information containing positional information are considered as a recommended composition image, see Col. 10, lines 24-27) represented by said desired, recommended composition data and an image represented by said image data (image captured from the camera) as shown in Figure 2(b) (See Col. 10, lines 47-54).

Referring to claim 5, the Honda reference discloses wherein said photography information acquisition means includes global positioning system means (GPS 16 as shown in Figure 4) for acquiring GPS information as said photography information, based on radio waves from GPS satellites; and read-out means reads out said desired, recommended composition data correlated with photography information which contains positional information corresponding to said GPS information, from said storage means (12), based on said GPS information (See Col. 10, lines 30-54).

Referring to claim 9, the Ellenby reference discloses further comprising archive means (massive cache memories 23, see Col. 13, lines 25-33) for archiving the image data acquired by said imaging means.

Referring to claim 28, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, and the Ellenby discloses an imaging part (CCD 20) for imaging a subject to acquire image data which represents said subject and a memory part (frame grabbers 22) for temporarily storing the image data as shown in Figure 4.

Referring to claim 32, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 28, and the Ellenby discloses archiving part (massive memories 23) for archiving the image data acquired by said imaging device as shown in Figure 4.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 6-8, 10-22 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellenby et al. U.S. Patent 5,815,411 in view of Honda et al. U.S. Patent 5,296,884 and Baron U.S. Patent 6,459,388.

Referring to claim 2, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, except the Ellenby reference does not explicitly show the photography information contains date information which represents various dates, along with said positional information; and said recommended composition data represent composition images recommended on said various photography dates in addition to the various photography locations.

The Honda reference teaches in Figures 3 and 7, an imaging device comprising the photography information contains date information which represents various dates, along

with said positional information (See Col. 6, lines 25-38). The Baron reference teaches in Figures 1-3, an imaging device comprising recommended composition data represent composition images recommended on said various photography dates in addition to said various photography locations (See Col. 8, lines 9-15). The both Honda and Baron references are evidence that one of ordinary skill in the art at the time to see more advantages the imaging device system would have photography information contains any other information such as dates, weather or imaging condition information along with the positional information and recommended composition data also contains any other information such as photography date, weather or imaging condition information in addition to said various photography locations, so that the photograph information from the camera and recommended composition data from database are more easily to compared, analyzed, searched by the system and the desired recommended composition data will be more accurately determined from data base. For that reason, it would have been obvious to one of ordinary skill in the art to modify the image device of Ellenby ('411) by providing the photography information contains date information which represents various dates, along with said positional information; and said recommended composition data represent composition images recommended on said various photography dates in addition to the various photography locations as taught by Honda ('884) and Baron ('388).

Referring to claim 3, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected to claims 2, and the Honda reference discloses wherein said photography information contains weather information (detected by sensor 14, such as temperature and humidity, see Honda's Col. 5, lines 42-50) which represents various weather

recommended at said photography locations, along with said positional information; and the Baron reference discloses said recommended composition data represent composition images recommended under said various weather in addition to said various photography locations (See Baron's Figure 3, item 33).

Referring to claim 4, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected same comments to claim 3.

Referring to claim 6, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected same comments to claims 2 and 5.

Referring to claim 7, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected same comments to claims 3, and the Honda reference discloses wherein said photography information acquisition means includes global positioning system (GPS receiver 10) means for acquiring GPS information as said photography information, based on radio waves from GPS satellites, and weather information acquisition means (sensor 14) for accessing a weather information server which provides weather information recommended at said photography location, to acquire weather information recommended at said photography location (See Honda's Col. 5, lines 10-53 and Col. 6, lines 49-50); and the Baron reference discloses read-out means reads out said desired, recommended composition data correlated with photography information, which contains positional information corresponding to said GPS information and said acquired weather information, from said storage means, based on said GPS information and said acquired weather information (See Baron's Col. 6, lines 1-6 and Col. 8, lines 46-55).

Referring to claim 8, the Ellenby, Honda and Baron references all subject matter as discussed with respected same comments to claim 7.

Referring to claim 10, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected to claims 2 and 9, and the Honda reference discloses wherein said storage means stores imaging-condition information (e.g., weather, even, temperature and humidity at the time of picture-taking), which represents recommended imaging conditions suitable for archiving said image data in said archive means, and Baron references discloses in correlation with said recommended composition data; and said read-out means reads out desired imaging-condition information correlated with said desired, recommended composition data, along with said desired, recommended composition data as shown (e.g., data base 300, see Col. 3, lines 52-59).

Referring to claim 11, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected to claims 2 and 10, and the Baron reference discloses further comprising imaging-condition display means (monitor 12) for displaying recommended imaging conditions represented by said desired imaging-condition information (See Col. 4, lines 7-14 and Col. 7, lines 54-67).

Referring to claim 12, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected to claims 2 and 10, and the Baron reference discloses further comprising imaging-condition set means (command keys 42) for setting said imaging means, based on recommended imaging conditions (see Figure 3, item 34) represented by said desired imaging-condition information.

Referring to claim 13, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected same comments to claim 12.

Referring to claim 14, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected to claims 2 and 12, and the Baron reference discloses further comprising imaging-condition-set switching means for switching ON and OFF states of said imaging-condition set means (e.g., the command keys 42 which allows user to scroll through, select, or otherwise choose an manipulate information presented on the display, inherently, within the command keys must by a means for switching ON and OFF states of said imaging-condition set means because any information associated with the image-condition set means must appear on the display and it is commonly know to anyone of ordinary skill in the art that the device display must capable of being turned on and off).

Referring to claim 15, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected to claims 2 and 12, and the Baron reference discloses wherein said read-out means reads out only said desired, recommended composition data correlated with imaging-condition information which represents recommended imaging conditions settable in said imaging means (e.g., the Baron discloses a processor that provides data to the display to the user, which is capable of showing data stored in a databases, which does in fact correspond to the desired imaging –condition information as a means for reading out data comprising the embodiment of a camera for capturing an image of desired and recommended images, see Col.7, lines 7-13).

Referring to claim 16, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respected same comments to claim 15.

Referring to claim 17, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to claims 2 and 9, and the Baron reference discloses wherein said recommended composition data have attendant information (tour guide video 35, directions 32, weather information 33 in Figure 3, see Col. 8, lines 20-45) related to said recommended composition images; and said archive means (database 300) attaches said attendant information to said image data when archiving said image data.

Referring to claim 18, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 17.

Referring to claim 19, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 17.

Referring to claim 20, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 17.

Referring to claim 21, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 17.

Referring to claim 22, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 17.

Referring to claim 29, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claims 2 and 28.

Referring to claim 30, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 3 and 28.

Referring to claim 31, the Ellenby, Honda and Baron references disclose all subject matter as discussed with respect to same comments to claim 3 and 28, and the Honda

reference discloses wherein said photography information includes weather information accessed through a weather information server (remote transmitting stations as shown in figure 5) which provides weather information recommended at said photography location, to acquire weather information recommended at said photography location (See Col. 6, lines 1-6 and lines 49-50).

8. Claims 23, 25 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellenby et al. U.S. Patent 5,815,411 in view of Suzuki U.S. Patent 5,831,670.

Referring to claim 23, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, except the Ellenby reference does not explicitly show read-out recognition means for informing that said desired, recommended composition data is read out, when reading out said desired, recommended composition data.

The Suzuki teaches an indicator device 9 that is equipped with a function for displaying photographing information, which comprises that of said desired and recommended composition data, in the face of the camera body and in the view finder and is also equipped with a warning function such as a buzzer, a synthesized sound, a vibration or the like (See Col. 4, lines 28-33). The Suzuki reference is evidence that one of ordinary skill in the art at the time to see more advantages the photographer would want to have an indicator/warning as the read-out recognition means that the composition quality of their field of view is not going to produce an optimum photograph, as they can make adjustments right array and not after the image has been captured (See Col. 1, lines 49-58). For that reason, it would have been obvious to one of ordinary skill in the art to modify the image device of Ellenby ('411)

by providing read-out recognition means for informing that said desired, recommended composition data is read out, when reading out said desired, recommended composition data as taught by Suzuki ('670).

Referring to claim 25, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, except the Ellenby reference does not explicitly show coincidence recognition means for informing that said recommended composition image displayed on said display means has coincided with the image representing said subject.

The Suzuki teaches an indicator device 9 that is equipped with a function for displaying photographing information, which comprises that of said desired and recommended composition data, in the face of the camera body and in the view finder and is also equipped with a warning function such as a buzzer, a synthesized sound, a vibration or the like (See Col. 4, lines 28-33). The Suzuki reference is evidence that one of ordinary skill in the art at the time to see more advantages the photographer would want to have an indicator/warning as the coincidence recognition means that the composition quality of their field of view is not going to produce an optimum photograph, such as recommended composition image displayed on said display means does not have coincided with the image representing said subject, as they can make adjustments right array and not after the image has been captured (See Col. 1, lines 49-58). For that reason, it would have been obvious to one of ordinary skill in the art to modify the image device of Ellenby ('411) by providing coincidence recognition means for informing that said recommended composition image displayed on said display means has coincided with the image representing said subject as taught by Suzuki ('670).

Referring to claim 34, the Ellenby and Suzuki references disclose all subject matter as discussed with respected same comments to claims 25 and 28.

9. Claims 24, 26, 27, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellenby et al. U.S. Patent 5,815,411

Referring to claim 24, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, and the Ellenby reference discloses non-display of said recommended composition image as shown in Figure 2(a) and display of said recommended composition image as shown in Figure 2(b). However, the Ellenby reference does not show input control keys 29 of computer can switch display and non-display of said recommended composition image as shown in Figure 2(a). Office Notice is taken that both the concept and the advantages of providing for selection display means switching display and non-display of said recommended composition image are well known and expected in the art. It would have been obvious to have more flexible options to the photographer to control whether or not need a recommended composition image display on the display means in Ellenby.

Referring to claim 26, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, except the Ellenby reference does not explicitly disclose wherein further comprising photography-information-acquisition (GPS 16) switching means for switching ON and OFF states of said photography information acquisition means (GPS 16). Office Notice is taken that both the concept and the advantages of providing switching means for switching ON and OFF states of said photography information acquisition means are well known and expected in the art. It would have been

obvious to have the photography-information-acquisition switch in the system of Ellenby as the switch are known to provide the photographer for having a flexible option to turn ON or OFF the GPS receiver any time when they want so that the system can significantly reduce power consumption.

Referring to claim 27, the Ellenby reference discloses all subject matter as discussed with respected same comments to claim 1, except the Ellenby reference does not explicitly disclose wherein further comprising: image switching means for switching ON and OFF states of said imaging means; and switching display means for sequentially displaying recommended composition images, represented by the recommended composition data stored in said storage means, on said display means when said imaging means is in the OFF state. Office Notice is taken that both the concept and the advantages of providing for image switching means for switching ON and OFF states of said imaging means (turn ON or OFF camera, or press shutter button); and switching display means for sequentially displaying recommended composition images, represented by the recommended composition data stored in said storage means, on said display means when said imaging means is in the OFF state are well known and expected in the art. It would have obvious to have more flexible options to the photographer to control whether or not need to capture image or a recommended composition image display on the display means in Ellenby.

Referring to claim 33, the Ellenby reference discloses all subject matter as discussed with respected same comments to claims 24 and 28.

Referring to claim 35, the Ellenby reference discloses all subject matter as discussed with respected same comments to claims 26 and 28.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Ye whose telephone number is (571) 272-7372. The examiner can normally be reached on Mon-Fri 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lin Ye  
Examiner  
Art Unit 2615